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July 30, 1997

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Mr. William F. Caton
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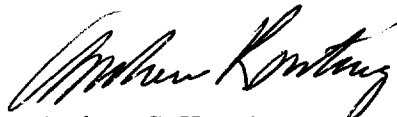
Re: MM Docket No. 97-138
Review of the Commission's Rules Regarding the Main Studio and
Local Public Inspection Files of Broadcast Television and Radio Stations

Dear Mr. Caton:

Transmitted herewith on behalf of Sinclair Telecable, Inc., are an original and four copies of its comments in response to the *Notice of Proposed Rule Making*, FCC 97-182 (released May 28, 1997), in the above-referenced proceeding.

Should any questions arise concerning this matter, please communicate directly with the undersigned.

Very truly yours,



Andrew S. Kersting
Counsel for
Sinclair Telecable, Inc.

Enclosures

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Federal Communications Commission

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In the Matter of)
)
 Review of the Commission's Rules) MM Docket No. 97-138
 regarding the main studio and)
 local public inspection files of)
 broadcast television and radio stations)
)
 47 C.F.R. §§73.1125,)
 73.3526 and 73.3527)

To: The Secretary

COMMENTS OF SINCLAIR TELECABLE, INC.

Sinclair Telecable, Inc. d/b/a Sinclair Communications ("Sinclair")¹ hereby submits these comments in response to the Commission's *Notice of Proposed Rule Making*, FCC 97-182 (released May 28, 1997) ("*NPRM*"), in the above-captioned proceeding. As demonstrated herein, the existing main studio rule imposes substantial burdens on Commission licensees without providing countervailing public interest benefits. Therefore, Sinclair respectfully requests that Section 73.1125 of the Commission's rules be modified as set forth below.

I.

Introduction

In its *NPRM*, the Commission proposed to replace its existing principal- community-contour standard with a new standard that will give licensees additional flexibility in locating their main

¹ Sinclair and/or its affiliated entities are the licensees of the following broadcast stations: KGSR(FM), Bastrop and KROX-FM, Giddings, Texas, and WROX-FM, Cape Charles, WKOC(FM), Chesapeake, WCDX(FM), Mechanicsville, WNIS(AM), Norfolk, WTAR(AM), Norfolk, WSMJ(FM), Richmond, WGCV(AM)/WPLZ-FM, Petersburg, all Virginia.

studio, yet still ensure that the studio is “reasonably accessible” to a station’s community of license.

The Commission set forth the following four proposals:

- (1) Permit a station’s main studio to be located within the principal community contour of any station licensed to the same community;
- (2) Permit a station to locate its main studio within a radius of a set number of miles from a common reference point in the station’s community of license, such as the community’s center-city coordinates;
- (3) Combine the approaches set forth above to permit a station to locate its main studio anywhere within the principal community contour of any station licensed to the same community, or within a set distance from the center of the community, whichever provides the greatest flexibility; and
- (4) Permit an entity that owns multiple stations in a market to co-locate the main studio for each of its stations at any one of the commonly-owned stations, provided that each station is located within the same local market, and that the main studio is within some set distance from the center of the community.

In connection with proposals 2-4, the Commission requested comments regarding the appropriate mileage standard necessary to ensure that the main studio remains reasonably accessible to residents of the community of license. *NPRM*, ¶¶14-15.

II.

The Premise Upon Which the Main Studio Rule is Based No Longer Exists

The main studio rule is based on the premise that locating a station’s main studio within its principal community contour will permit “community residents to readily contact the station to voice suggestions or complaints.”² Specifically, the rule is designed to help stations identify, and be more responsive to, community needs and interests, as well as help ensure that a station’s studio will continue to be accessible to community residents who participate in local programs that are produced

² *NPRM*, ¶4, quoting *Amendment of Main Studio and Program Origination Rules for Radio and Television Stations*, 2 FCC Rcd 3215 (1987) (“*Main Studio and Program Origination Rules*”).

at the studio. *NPRM*, ¶4. However, due to the reduced role of the main studio in the production of programming and the significant growth of modern highways and mass transit systems, the FCC no longer should maintain the presumption that a main studio is “reasonably accessible” only if it is within a station’s principal community contour.

It has been over ten years since the Commission eliminated the requirement that stations originate a minimal amount of programming from their main studios or from other points within their community of license.³ As a result, the role of the main studio in the production of programming has diminished significantly over the years. This, in turn, has resulted in community residents having little reason to visit a station’s studio other than to review the station’s public inspection file.⁴ In operating its ten radio stations, however, it has been Sinclair’s experience that requests to review a station’s public file are very infrequent. Indeed, Sinclair has found that residents of a station’s service area communicate with the station by telephone or mail, or even over the Internet, but generally do not take the time to actually visit the station’s studio. On those rare occasions where community residents elect to visit the studio, the growth of modern highways and mass transit systems has significantly reduced the travel time such that stations’ main studios are much more accessible than they were at the time the current rule was adopted. Moreover, it often is more convenient for community residents to visit a station’s main studio due to its proximity to

³ See *Main Studio and Program Origination Rules*, 2 FCC Rcd at 3218-19.

⁴ As part of this rulemaking proceeding, the Commission has proposed to permit stations to locate their public inspection files at their main studios, regardless of where they are located. *NPRM*, ¶20. Sinclair supports this proposal because, in its experience, community residents who wish to see a station’s public file go directly to the station’s studio where management personnel are present. They do not go to a public library or any other location where a station’s public file might happen to be located without first visiting the station’s studio.

particular commuting patterns, access to public transportation or major highways, and/or the availability of ample public parking, than as a consequence of the fact that the studio is located within the station's principal community contour, which can be quite large depending upon the extent of a station's authorized facilities and resulting coverage area. Indeed, in most instances the location of a station's main studio is selected by a licensee due to its accessibility to the station's advertisers, employees, and listeners throughout the station's service area.

III.

The Main Studio Rule Imposes Substantial Burdens Upon Licensees, Especially Those Owning More Than One Radio Station In the Same Market

In the Telecommunications Act of 1996 ("1996 Act"),⁵ Congress substantially revised the local radio ownership rules to permit a single entity to own up to eight radio stations in the largest markets. Most, if not all, licensees owning more than one station in the same area find it most efficient to operate their commonly-owned stations from a central location where the owner can combine its news, production, sales, engineering, and administrative staffs. However, the main studio rule currently requires multi-station licensees to maintain a separate main studio for one or more of their commonly-owned stations if they do not place a principal community contour signal over the central studio. As a result, the main studio rule often deprives multi-station licensees of savings that could be put to more productive use for the benefit of the community served by the station.

Requiring owners of multiple stations in the same market to maintain a separate main studio for each of their stations imposes substantial burdens on multiple station owners without any countervailing public interest benefits. The present requirements of maintaining appropriate

⁵ Pub. L. No. 104-104, 110 Stat. 56 (1996).

production and transmission facilities, and continuous program transmission capability, often serve no useful purpose because in many instances a station's main studio is not used to originate programming. Instead, the programming for the commonly-owned stations is either originated or received via satellite at the central studio location, and then delivered to each station's transmitter from that location. The requirement of maintaining a full-time management and staff presence at each "main studio" results in a further waste of resources because the designated staff personnel often have few, if any, significant job responsibilities other than being assigned to the designated studio location in order to satisfy the FCC's main studio requirements. The costs to the licensee include paying rent for a main studio facility for each commonly-owned station in the same market, maintaining the necessary equipment to originate programming and appropriate production and transmission facilities at each studio, and paying the salaries of employees for each station, who have no significant job responsibilities other than waiting for the phone to ring or to accommodate an infrequent visitor. Together, these costs are substantial and effectively deprive multi-station licensees of the economies of scale that can be achieved through common ownership of stations in the same area that Congress implicitly found to be in the public interest in relaxing the local radio ownership rules in the 1996 Act.

In proposing to relax the main studio rule and adopt an appropriate standard for determining whether a station's main studio is reasonably accessible to the residents of its community, the Commission must ask itself the following question: Where a licensee of commonly-owned stations in the same market has elected to combine the news, production, sales, engineering, and administrative staffs of its commonly-owned stations, and all of the programming for the respective stations in the market either is originated at the central studio location or is received at that location

and then delivered to the various stations' transmitters, what management-level functions are left to be performed at the various "main studios" of the individual stations? The existing main studio requirements result in an avoidable and unnecessary expenditure of resources that could be better spent on serving a station's listening audience through enhanced, more responsive programming.

In light of the facts that (i) the vast majority of residents of a station's service area communicate with the station by telephone, mail, or over the Internet, (ii) members of the public have little reason to visit a station's studio other than to view its public file, (iii) the infrequent nature of any such visits, and (iv) the growth of modern highways and mass transit systems, which make a centrally-located studio facility much more accessible than it otherwise might have been at the time the current rule was adopted, Sinclair proposes that, in addition to the proposals set forth in the *NPRM*, licensees of multiple stations in the same market be permitted to locate their main studio within the principal community contour of *any one* of the commonly-owned stations, so long as the central studio is located no more than 50 miles from the center-city reference coordinates of each commonly-owned station's respective community of license.⁶ Sinclair believes that this proposal strikes an appropriate balance between the Commission's interest in assuring that stations remain responsive to the needs and interests of the residents of their community, and the substantial burdens imposed upon multiple-station licensees in attempting to comply with the main studio rule. The public interest benefits to be derived from requiring each station to maintain a main studio within

⁶ Sinclair submits that the proposed distance of 50 miles is not at all unreasonable considering the fact that Class C FM stations typically have principal community contours as great as 80 miles in diameter. See *NPRM*, ¶9. This means that under the current rule, the licensee of a single Class C FM station conceivably could locate its transmitter approximately 30 miles to the east of the station's community of license, and its main studio as much as 70 miles in the same direction from its community of license.

its principal community contour are simply too tenuous and remote to warrant the continued burden and unnecessary expenditure of resources that is imposed upon licensees who own more than one station in the same market. Furthermore, the efficiencies of scale that can be achieved through joint operation of the commonly-owned stations provide substantial cost savings that often result in public interest benefits through enhanced service.

IV.

The Existing Main Studio Rule Results in Inequitable Treatment Between Stations

As stated above, the primary rationale for requiring stations to locate their main studio within the station's principal community contour is to ensure that the studio is reasonably accessible to the residents of the station's community. However, the existing main studio rule is not narrowly tailored to satisfy this concern because it allows high-powered stations greater flexibility in locating their main studio, and places a disproportionate burden on the licensees of smaller stations. It is inequitable to permit higher-powered stations to locate their main studio at a substantially greater distance from the station's community of license than lower-powered stations.

As stated in the *NPRM*, the radius of the principal community contour of a Class C FM station generally is over 42 miles. *NPRM*, ¶9 and n.19. The radius of a Class A FM station, however, generally is approximately only 10 miles. *Id.* If the main studio of a Class C station is deemed to be reasonably accessible to the residents of its community even though it may be located within a principal community contour as much as 80 miles in diameter, then a Class A FM station also should be permitted to locate its main studio within the same geographical area, even though it may be outside the station's principal community contour. There simply is no rational basis for permitting higher powered stations to have greater flexibility in locating their main studio than stations which serve a smaller coverage area. Therefore, in addition to the proposal set forth above,

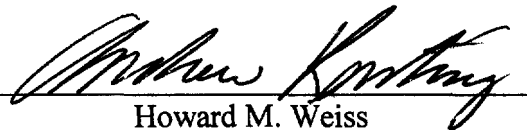
Sinclair proposes that all stations be permitted to locate their main studio up to 40 miles from the center-city reference coordinates of its community of license.

V.
Conclusion

As demonstrated herein, the main studio rule imposes substantial burdens upon licensees without providing countervailing public interest benefits. Accordingly, for the reasons stated herein, the Commission should substantially relax its main studio rule to permit stations to locate their main studio up to 40 miles from the center-city reference coordinates of the their community of license. Moreover, for those licensees owning multiple stations in the same market, the Commission should revise its rule to permit licensees of such stations to locate their main studio within the principal community contour of any one of their commonly-owned stations, so long as the central studio is located no more than 50 miles from the center-city coordinates of each station's community of license.

Respectfully submitted,

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July 30, 1997
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